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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,627 10/30/2003		Andrew W. Marsden	20341-72631	7341	
23643	7590	04/04/2006		EXAMINER	
BARNES (LIEU, JULIE BICHNGOC		
	MERIDIAN OLIS, IN 46204			ART UNIT	PAPER NUMBER
				2612	
			DATE MAILED: 04/04/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary Summer Art Unit Julie Lieu 2812		Application No.	Applicant(s)					
Julie Lieu Julie Julie Hie Genkth Hier Lieu Julie Julie Julie Hier Lieu Julie Ju		10/697,627	MARSDEN ET AL.					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Estensions of time may be a realized under the provisions of 3 CFR 1.13(a), in overnit, however, may a rejy be timely fixed to the communication of the cover of 3 CFR 1.13(a), in overnit however, may a rejy be timely fixed to 1 this communication. Failurs to eight with his seat or estanded period for regivity is pastation, cause he application to be processed by the Old State of this communication. Failurs to eight with his seat or estanded period for regivity in the state or seating desired this communication, several timely filed, may reduce any seamed parent timely stated. See 5 CFR 1.73(b). Status 1) Sesponsive to communication(s) filed on 17 January 2006. 2a This action is FINAL 2b This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-32 isfare pending in the application. 4a) Of the above claim(s) isfare withdrawn from consideration. 5) Claim(s) 2-32 isfare allowed. 6) Claim(s) 1-2,11-14,17 and 18 isfare rejected. 7) Claim(s) 3-10,154 and 19-22 isfare objected to. 8) Claim(s) 3-10,154 and 19-22 isfare objected to. 8) Claim(s) 3-10,154 and 19-22 isfare objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on isfare: a) accepted or b) objected to by the Examiner. Application Papers 9) The drawing(s) filed on isfare: a) accepted or b) objected to by the Examiner. 10) The drawing(s) filed on isfare: a)	Office Action Summary	Examiner	Art Unit					
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DETAILED ACTION

- This Office action is in response to Applicant's amendment filed January 17, 2006.
 Claim 1 has been amended.
- 2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1 and 11-13 are rejected under 35 U.S.C. 103(a) as being anticipated by Knoedler et al. (US Patent No. 5,280,635).

Claim 1:

Knoedler et al. discloses a monitor for sensing and transmitting sounds in a baby's vicinity, comprising:

- a. a housing 8, the housing enclosing acoustical means 34 and electrical means (transmitter) for, respectively, sensing and transmitting the sounds; and
- b. the monitor being mountable on a support by straddling the support with the spaced-apart portions 12 and 72 of the housing.

Though the reference fails to disclose two substantially spaced-apart legs, the portions 12 and 72 function as spaced apart legs for straddling the support. It appears that portion 12 and 72 are not integral. However, lacking any criticality as to why the legs must be integral, how it

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would produce any unexpected result, or would solve any stated problems, it appears that portion 12 and 72 of the housing 8 in Knoedler functions equally the same as the claimed legs. "Lacking any criticality, to make prior art parts integral does not make the claimed invention patentable over the prior art." (In re Larson, 144 USPQ 347).

Claim 2:

The housing in Knoedler is not a U shape. Nonetheless, lacking any criticality as to why it must be this shape how it would produce any unexpected result, or would solve any stated problems, it appears that the housing of the device in Knoedler functions equally well as if it were U-shape. "Lacking any criticality, changing the form or shape of the prior art parts does not make the claimed invention patentable over the prior art." (In re Dailey, 149 USPQ 47)

Claim 11:

The acoustical means 34 includes a microphone to detect the sounds.

Claim 12:

The electrical means in the Knoedler device includes at least one device to convert and transmit the sounds to a remotely located receiver.

Claim 13:

The transmitter in Knoedler includes at least one battery 48 in the housing.

Claim 14:

It appears that the battery in Knoedler is not rechargeable. Nonetheless, the use of rechargeable battery is very old and conventional in the art. Thus, it would have been obvious to one skilled in the art to use rechargeable battery in the device of Knoedler because it would be economical to use rechargeable battery in the long run.

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Claim 18:

Knoedler fails to disclose an indicator light showing the power status of the battery.

Nonetheless, it would have been obvious to one skilled in the art to add a battery indicator light

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in the Knoedler device because it is very conventional to indicate the battery status to the user.

5. Claims 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoedler et al.

(US Patent No. 5,280,635) in view of Thompson (US Application 2005/0184877).

Claim 17:

Knoedler fails to disclose a switch and the ability to use the switch to allow for

transmission frequency selection. However, Thompson teaches a baby-monitoring device that

includes a switch 52 for selecting different frequencies of the transmitter. In light of this

teaching, one skilled in the art would have readily recognized incorporating this feature in to the

system of Knoedler because it is advantageous to allow user to select the transmission frequency.

Allowable Subject Matter

6. Claims 23-32 are allowed.

7. Claims 3-10, 15-16, and 19-22 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the limitations of

the base claim and any intervening claims.

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Remarks

- 8. The examiner regrets to continue to reject claim 1 as amended, though the examiner suggested the change. The reason is set forth in the rejection after considering In re Larson, 144 USPQ 347 and reviewing the specification for criticality of the legs and shape of the housing of the device. There was not particular criticality pointed out in the specification regarding the legs and the shape of the housing.
- 9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie Lieu

Primary Examiner Art Unit 2612